

FCC MAIL SECTION

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Federal Communications Commission FCC MAIL SECTION

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

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DISPATCH

In the Matter of

DISPATCHED BY

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Claremore and Chelsea, Oklahoma)

MM Docket No. 95-167  
RM-8699

**REPORT AND ORDER**

(Proceeding Terminated)

Adopted: March 19, 1997

Released: March 28, 1997

By the Chief, Allocations Branch:

1. At the request of Michael P. Stephens ("petitioner"), the Commission has before it the Notice of Proposed Rule Making, 10 FCC Rcd 12073 (1995), proposing the reallocation of Channel 264A from Claremore to Chelsea, Oklahoma, as the community's first local aural transmission service, and the modification of petitioner's construction permit for Station KTFR to specify Chelsea as its community of license. Petitioner filed comments and reply comments reiterating its intention to apply for the channel.<sup>1</sup> No other timely comments were received.<sup>2</sup>

2. As stated in the Notice, petitioner indicated its intention to relocate its transmitter, thus creating gain and loss areas and populations if Channel 264A is reallocated to Chelsea. Therefore, he was requested to provide information showing the areas and populations which will receive new service and the areas and populations which will lose service, as well as the number of reception services currently available in the gain and loss areas. In response, he states that Station KTFR's 60 dBu contour at Claremore, with its authorized power of 3 kW at 100 meters HAAT, encompasses an area of 1,908 square kilometers with a population of 61,427 persons. As a Chelsea station, petitioner states that the station's 60 dBu contour will encompass an area of 2,554 square kilometers with a population of 39,731 persons. Thus, with the transmitter site change, there will be a gain area of 1,426 square kilometers containing 16,200 persons and a loss area of 780 square kilometers with 37,896 persons. Petitioner goes on to state that all of the loss

<sup>1</sup> The Notice requested that petitioner comply with Section 1.52 of the Commission's Rules by providing an affidavit verifying that the statements contained in the petitioner were accurate to the best of his knowledge. Petitioner, in his comments, has provided the requested verification.

<sup>2</sup> After the record closed, Brite-Star Broadcasting ("Brite-Star") filed a Motion for Leave to File Comments and Comments and petitioner filed an Opposition to Motion for Leave to File Comments and Comments. Brite-Star also filed in this proceeding a copy of its Informal Objection to the grant of petitioner's request to extend the construction deadline for Station KTFR (BMPH-960205JZ) and petitioner filed a copy of its Opposition to the Informal Objection. On February 20, 1997, the Audio Services Division, by delegated authority, granted a six-month extension of time to complete construction of Station KTFR. Therefore, the issue raised by Brite-Star, that is, whether the petitioner was the holder of a valid construction permit, is now moot and the pleadings will not be discussed.

area receives a minimum of nine and a maximum of twelve aural services while the population within the gain area receives a minimum of three to a maximum of thirteen services. He also reiterates that reallocating Channel 264A to Chelsea will allow Station KTFR to improve its facilities from 3 kW to 6 kW. Such operation is precluded as a Claremore station because of a short-spacing to Station KBBQ, Fort Smith, Arkansas.

3. We believe the public interest would be served by reallocating Channel 264A from Claremore to Chelsea, Oklahoma, as the community's first local aural transmission service. A staff engineering study shows that the reallocation of Channel 264A to Chelsea will result in a loss area of 659 square kilometers with a population of 15,724 persons, and a gain area of 1,303 square kilometers with a population of 17,437 people. While we are concerned with the loss of an existing service to almost 16,000 persons, this concern is lessened by the fact that the entire loss area will continue to be well-served, that is, receiving service from at least five full-time stations. Further, the reallocation of Channel 264A to Chelsea will provide a 1,327 people who will receive a fourth full-time reception service and 705 people who will receive a fifth such service.

#### Technical Summary

4. Channel 264A can be allotted to Chelsea in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.0 kilometers (1.2 miles) southwest, to avoid a short-spacing to Station KGLC, Channel 265A, Miami, Oklahoma.<sup>3</sup>

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 12, 1997, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED, with respect to the communities listed below, to read as follows:

<u>City</u>	<u>Channel No.</u>
Chelsea, Oklahoma	264A
Claremore, Oklahoma	--

6. IT IS FURTHER ORDERED, pursuant to Section 316(a) of the Communications Act of 1934, as amended, that the construction permit of Michael P. Stephens for Station KTFR, Channel 264A, IS MODIFIED to specify Chelsea, Oklahoma, in lieu of Claremore, Oklahoma, as its community of license, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).

<sup>3</sup> The coordinates for Channel 264A at Chelsea are 36-31-27 North Latitude and 95-26-55 West Longitude.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change of community of license of an FM or television allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Michael P. Stephens, permittee of Station KTFR, is required to submit a rule making fee in addition to the fee required for the applications to effect the change in community of license and/or upgrade.

8. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

**FEDERAL COMMUNICATIONS COMMISSION**

John A Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau